To be vice admiral

Vice Adm. Conrad C. Lautenbacher, Jr., 000–00–0000.

The following named officer for appointment to the grade of lieutenant general in the United States Army while assigned to a position of importance and responsibility under title 10, U.S.C., section 601(a):

To be lieutenant general

Maj. Gen. George A. Crocker, 000–00–0000.

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 29 nomination lists in the Air Force, Army, Marine Corps and Navy which were printed in full in the CONGRESSIONAL RECORDS of December 11, 1995, May 22, 1996, July 11, 17, 19, and 29, 1996, September 3, and 9, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of December 11, 1995, May 22, 1996, July 11, 17, 19, 29, September 3, and 9, 1996, at the end of the Senate proceedings.)

In the Air Force there is one promotion to the grade of lieutenant colonel (Edgar W. Hatcher) (Reference No. 1267).

In the Air Force and Air Force Reserve there are 11 appointments to the grade of colonel and below (list begins with Malcolm N. Joseph III) (Reference No. 1268).

In the Army there is one appointment as permanent professor at the United States Military Academy (Colonel George B. Forsythe) (Reference No. 1269).

In the Marine Corps there are four promotions to the grade of major (list begins with Gary J. Couch) (Reference No. 1270).

In the Marine Corps there are two promotions to the grade of major (list begins with Ralph P. Dorn) (Reference No. 1271).

In the Marine Corps there is one promotion to the grade of lieutenant colonel (George W. Simmons) (Reference No. 1111).

In the Army there are 1,576 promotions to the grade of major (list begins with Anthony J. Abati) (Reference No. 1198).

In the Air Force and Air Force Reserve there are 22 appointments to the grade of colonel and below (list begins with Jeffrey I. Roller) (Reference No. 1202).

In the Army Reserve there is one appointment to the grade of lieutenant colonel (Donald G. Higgins) (Reference No. 1203).

In the Army Reserve there are 13 promotions to the grade of colonel and below (list begins with Robert M. Carrothers) (Reference No. 1206).

In the Army Reserve there are 37 promotions to the grade of colonel and below (list begins with James R. Barr) (Reference No. 1207).

In the Air Force there are 12 appointments to the grade of second lieutenant (list begins with Michael P. Allison) (Reference No. 1220).

In the Marine Corps there are five promotions to the grade of lieutenant colonel and below (list begins with Robert E. Carney) (Reference No. 1221).

In the Marine Corps Reserve there are 34 promotions to the grade of colonel (list begins with Craig T. Boddington) (Reference No. 1222).

In the Air Force there are 66 promotions to the grade of major (list begins with John W. Baker) (Reference No. 1223).

In the Navy there are two promotions to the grade of lieutenant commander (list begins with Aaron C. Flannery) (Reference No. 768).

In the Marine Corps there is one promotion to the grade of lieutenant colonel (John C. Sumner) (Reference No. 1272).

In the Navy there is one promotion to the grade of captain (John L. Willson) (Reference No. 1273).

In the Navy there is one promotion to the grade of lieutenant commander (Eric L. Pagenkopf) (Reference No. 1274).

In the Marine Corps there are 58 appointments to the grade of captain (list begins with Michael G. Alexander) (Reference No. 1275).

In the Marine Corps Reserve there are 150 promotions to the grade of lieutenant colonel (list begins with James R. Adams) (Reference No. 1276).

In the Navy there are 427 promotions to the grade of commander (list begins with Daniel C. Alder) (Reference No. 1277).

In the Naval Reserve there are 768 promotions to the grade of commander (list begins with James C. Ackley) (Reference No. 1278).

In the Navy there are 774 promotions to the grade of lieutenant commander (list begins with Gregorio A. Abad) (Reference No. 1279).

In the Air Force Reserve there are 26 promotions to the grade of lieutenant colonel (list begins with John W. Amshoff, Jr.) (Reference No. 1282).

In the Marine Corps there are three appointments to the grade of lieutenant colonel and below (list begins with Timothy Foley) (Reference No. 1283).

In the Naval Reserve there are 153 promotions to the grade of captain (list begins with Robert E. Aquirre) (Reference No. 1284).

In the Naval Reserve there are 382 promotions to the grade of commander (list begins with David W. Anderson) (Reference No. 1285).

In the Air Force there are 1,609 promotions to the grade of colonel and below (list begins with Johnny R. Almond) (Reference No. 1296).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HARKIN:

S. 2080. A bill to save taxpayer money by reducing the unnecessary increase in Pentagon spending in fiscal year 1997; to the Committee on Armed Services.

S. 2081. A bill to limit Department of Defense payments to contractors for restructuring costs associated with business combinations; to the Committee on Armed Services.

By Mr. DORGAN (for himself and Mr. ROBB):

S. 2082. A bill to amend title 18, United States Code, to eliminate good time credits for prisoners serving a sentence for a crime of violence, and for other purposes; to the Committee on the Judiciary.

By Mr. DEWINE:

S. 2083. A bill to amend title 18, United States Code, to set forth the civil jurisdiction of the United States for crimes committed by persons accompanying the Armed Forces outside of the United States, and for other purposes; to the Committee on Armed Services.

S. 2084. A bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes; to the Committee on the Judiciary.

By Mr. WARNER (for himself and Mr. FORD):

S. 2085. A bill to authorize the Capitol Guide Service to accept voluntary services; considered and passed.

By Mr. PRESSLER (for himself, Mr. LOTT, Mr. BAUCUS, Mr. HATCH, Mr. D'AMATO, Mr. NICKLES, Mr. GORTON, Mr. HATFIELD, Mr. BURNS, and Mrs. MURRAY):

S. 2086. A bill to amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of United States business operating abroad, and for other purposes; to the Committee on Finance.

By Mr. KERRY:

S. 2087. A bill to direct the Secretary of the department in which the Coast Guard is operating to provide rescue diver training under the Coast Guard helicopter rescue swimming training program; to the Committee on Commerce, Science, and Transportation.

By Mr. LOTT:

S.J. Res. 60. A joint resolution to disapprove the rule submitted by the Health Care Financing Administration on August 30, 1996, relating to hospital reimbursement under the medicare program; read twice.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself, Mr. DASCHLE, Mr. STEVENS, Mr. BYRD, Mr. WARNER, Mr. SIMPSON, Mrs. KASSEBAUM, Mr. FORD, Mr. ROCKEFELLER, Mr. LEVIN, Mr. GRASSLEY, Mr. COVERDELL, and Mr. FRIST):

S. Res. 293. A resolution saluting the service of Howard O. Greene, Jr. to the United States Senate; considered and agreed to.

By Mr. STEVENS:

S. Res. 294. A resolution to provide for severance pay; considered and agreed to.

By Mr. NICKLES (for himself, Mr. NUNN, Mr. COATS, Mr. ASHCROFT, and Mr. HELMS):

S. Con. Res. 71. A concurrent resolution expressing the sense of the Senate with respect to the persecution of Christians worldwide; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN:

S. 2080. A bill to save taxpayer money by reducing the unnecessary increase in Pentagon spending in fiscal year 1997; to the Committee on Armed Services.

PENTAGON BUDGET REQUEST LEGISLATION

• Mr. HARKIN. Mr. President, we must maintain a strong national defense. There can be no question about that. I believe part of that strength comes from wise use of taxpayer dollars. The $265.6 billion authorized by this Congress is $11.3 billion more than the Pentagon requested. I am offering this bill today to roll back this addon and restore the Pentagon's requested level. It directs the Secretary of Defense to

achieve this goal by making adjustments that do not jeopardize our military readiness or the quality of life of our military personnel.

The Secretary of Defense should not have trouble finding areas to trim. This budget adds less than $1 billion for readiness and quality-of-life issues. Too much of the rest is for gold-plated hardware and questionable weapons development.

Some star wars items, like the space-based laser system at an additional $70 million, or the kinetic energy antisatellite program at an additional $75 million, are expensive, destabilizing, and probably won't work. Other items, like the Kiowa helicopter, at an additional $190 million have missions that can be filled by other weapons at less cost. In this era of tight budgets, when we are slashing other programs, I don't see how we can justify these unwise, unwanted, unnecessary and untimely expenditures.

Mr. President, this simply defies common sense. The cold war is over.

The proposed increase, by itself, is only slightly smaller than the combined defense budgets of North Korea, Iraq, Syria, Iran, and Cuba. I think the American taxpayers are owed an explanation of this excessive spending.

I would like to know how my colleagues plan to pay for such extravagance in this time of constrained spending. This bill will either steal from parts of government that are already doing their part to reduce the deficit, or it will add billions of dollars to the deficit. We simply can't avoid one of these consequences.

Mr. President, let me put the magnitude of this fiscal irresponsibility into perspective. The $11.3 billion bonus is almost equal to the budgets of the National Institutes of Health and the Transportation Department. It's about twice the budget of the Interior Department and the Environmental Protection Agency, and it's almost four times larger than the budget of the National Science Foundation. Furthermore, for this amount of money we could fund the Pell Grant Program for 2 years or we could fund the Head Start Program for over 2½ years.

To look at it in terms of my State of Iowa, this addon of $11.3 billion is almost three times the budget for the entire State of Iowa. Iowans could fund their K–12 education system, some 500,000 pupils in about 380 school districts, for 5 years. At the current spending and enrollment levels, the $11.3 billion could fund Iowa State University for 94 years, the University of Iowa for 99 years, the University of Northern Iowa for 166 years, or all three together for 38 years.

We simply can't justify this excessive spending, we shouldn't ask our constituents to fork over $11.3 billion for programs the Pentagon does not need or could safely delay.

It's time for some fairness. It's time for some common sense. And fairness tells us that the Pentagon shouldn't be exempt from our efforts to balance the budget. Common sense dictates that we can't afford $11.3 billion in addons over what the Pentagon and the Joint Chiefs of Staff say we need to maintain a strong national defense. I urge my colleagues to join me in support of this commonsense bill to cut the deficit and put our priorities back in order.●

By Mr. HARKIN:

S. 2081. A bill to limit Department of Defense payments to contractors for restructuring costs associated with business combinations; to the Committee on Armed Services.

CORPORATE MERGERS LEGISLATION

● Mr. HARKIN Mr. President, I introduce a bill that will put a moratorium on taxpayer subsidies for mergers between defense contractors, and give the Government the tools to monitor these deals and recoup any overpayments.

To quote Lawrence Korb, Assistant Secretary of Defense under President Reagan in a recent article in the Brookings Review, ''Remember the $600 toilet seats and the $500 hammers that had taxpayers up in arms during the mid-1980s? Today's subsidized mergers are going to make them look like bargains.''

Here is what some public interest groups say about the policy:

The CATO Institute—''The costs associated with mergers should not be absorbed by federal taxpayers. This is a egregious example of unwarranted corporate welfare in our budget.''

Taxpayers for Common Sense—''It's time for the Pentagon to drop this ridiculous 'money for nothing' policy.''

Project on Government Oversight—''The new policy is unneeded, establishes inappropriate government intervention in the economy, promotes layoffs of high-wage jobs, pays for excessive CEO salaries, and is likely to cost the government billions of dollars.''

In 1993 then Undersecretary of Defense John Deutch made a major policy change with regard to Defense Department acquisition practices. His decision allowed the DOD to start subsidizing defense contractor mergers.

The taxpayers have already paid $300 million to wealthy defense contractors and the GAO estimates that they will pay another $2 billion or more in the next few years.

If Deutch's decision was a policy change, as I believe, then the proper procedures were not followed. The new policy was never printed in the Federal Register and there was no opportunity for public comment on it, so the contracts written under this policy may be invalid.

If it was a clarification of policy, as the proponents claim, then the taxpayers may be liable for paying restructuring costs on mergers all the way back to the 1950's. The cost to American taxpayers could be staggering.

In either case, the decision involves an interpretation of the Federal Acquisition Regulations [FAR] and may allow contractors for all Federal agencies and departments to collect such costs. Imagine Medicare paying restructuring costs for all Federal agencies and departments to collect such costs. Imagine Medicare paying restructuring costs for all major hospital mergers. This could add billions of taxpayers dollars to the total cost of this policy.

Proponents claim the subsidies save taxpayers money, but the record on these savings is spotty at best. According GAO studies of two business combinations the measured savings are far less than the amount promised. In one case the GAO found that ''the net cost reduction certified by DOD represents less than 15 percent of the savings . . . projected to the DOD 2 years earlier when they sought support for the proposed partnership.''

Moreover, the cost accounting is incomplete and there is no way for taxpayers to recoup the costs when the amount paid to contractors exceeds the actual benefit received. The current practice is to measure only costs to the Department of Defense when contractors merge and give thousands of hard-working Americans the boot. The costs associated with Government subsidized social services like worker retraining are not tallied. Neither are the costs associated with lost payroll tax revenue. My bill would fix these deficiencies.

Although I believe this practice must stop, I realize that is too new for most to make an informed decision about. That is why I am offering this very moderate bill. It will merely put a 1-year moratorium on these payments so that the Comptroller General can give us the tools we need to take a close look at the policy and ensure that the taxpayers recoup any payments in excess of realized benefits. It will also allow us to have hearings on this far-reaching policy change.

So, again Mr. President, this modest bill will give us the time and tools we need to thoroughly examine this policy. I urge my colleagues to support this common sense bill so that we can study this issue with all the care that it deserves.●

By Mr. DORGAN (for himself and Mr. ROBB):

S. 2082. A bill to amend title 18, United States Code, to eliminate good-time credits for prisoners serving a sentence for a crime of violence, and for other purposes; to the committee on the Judiciary.

THE 100 PERCENT TRUTH IN SENTENCING ACT

● Mr. DORGAN. Mr. President, last Friday I spoke on the Senate floor about legislation that I am proposing to make Americans safer in their homes and communities. Today I am formally introducing that legislation, and I wanted to take a few moments to describe in further detail what my bill would do and why it is needed.

All of us who are concerned about violent crime in this country know

that the causes of crime are complex and difficult. I certainly do not pretend to have all the answers. But there are some basic, commonsense steps we can take to reduce the amount of violent crime in this country—the first of which is to keep those people that we know are violent criminals off the streets.

My bill, the 100 Percent Truth in Sentencing Act, will eliminate the award of good-time credits for violent offenders in the Federal prisons and require violent offenders to serve 100 percent of their sentences. This is not a punitive action against criminals; it is a preventive action against violent crime.

Let me tell you why my bill will save lives and prevent violent crime. It does not take a genius to know who will commit the next crime—likely, it will be someone who already committed a crime. One-third of all violent crime is committed by someone who is already know to the criminal justice system and is ''under supervision''—that is, out on the streets because of parole, probation, or pretrial release.

This frightening statistic is not the result of actions by just a few hardened criminals. Rather, the majority of violent offenders will be rearrested for another crime within 3 years of their release. Fully one-third of all violent criminals released from prison will be rearrested for another violent crime within that timeframe.

These statistics are well known and undisputed, yet more than 90 percent of violent criminals are released early from prison. Back in 1984, we acknowledged that early release leads to more violent crime and, as a result, we abolished parole in the Federal system. But our system continues to award ''good-time'' credits—essentially, time off for good behavior—to the most violent felons in the system. The reason is that good time credits are awarded automatically to almost every inmate. In the Federal prison system, every prisoner—regardless of how brutal their crime—receives 54 days of good time per year unless they violate significant prison rules.

I could spend hours telling you about violent offenders who were released early from Federal prisons, but let me tell you about just one of them. Martin Link has a long history of brutal, violent crime. In 1982, he grabbed a 15-year-old girl in an alley in south St. Louis, sodomized her, and tried to rape her. In 1983, he forced another young girl into his car, took her to East St. Louis, and raped her. Although he was sentenced to 20 years in Federal prison, he was released in 6 years because of combined good time credits and parole. Soon afterward, he got a year's probation for soliciting sex from an undercover agent.

The next year, in 1990, he stole a car, but was still on the streets in 1991 when he murdered 11-year-old Elissa Self-Braun while she was walking home from her schoolbus. The same month that he murdered Elissa, according to the St. Louis Post-Dispatch, Link robbed, sodomized, and tried to rape a woman he grabbed at a self-service laundry, snatched another woman's purse, tried to rape another woman at knifepoint, almost abducted an 8-year-old girl, and held up an ice cream shop. If Link had served his full sentence for an earlier abduction and rape, none of these crimes would have been committed and Elissa would be alive today.

Link is now serving a sentence of life in prison without parole. But in my view, the death of little Elissa was completely preventable and inexcusable. We know that violent criminals often repeat their crimes. At a minimum, we must take steps to keep violent offenders behind bars for the full terms of their sentences.

This bill is not my first attempt to end good time for violent offenders. In 1994, I offered an amendment to the Violent Crime Control and Law Enforcement Act of 1994 designed to eliminate good time for all violent offenders unless they exhibited ''exemplary'' behavior while in prison. My intent was that only those violent offenders who demonstrated that they were rehabilitated would be released from Federal prison before the end of their sentences.

That amendment was accepted and is now law. Unfortunately, the Justice Department has interpreted that provision to mean that violent offenders will continue to receive automatic good time credits unless they break significant prison rules. This was not the intent of my amendment in 1994, and the bill I am now offering clarifies my position: violent offenders should remain in jail until they have completed their court-imposed sentences.

Prison officials tell me that they rely on good time credits as a disciplinary tool. On a recent visit to a Federal prison, officials told my staff that Federal inmates are increasingly young, undisciplined, violent, and unpredictable. ''Without good time to use as an incentive to control inmates,'' one official confided, ''we would fear for the lives of our prison guards!''

I am very sympathetic to the arguments they raise. It is the job of prison administrators to control inmate populations and ensure a safe, orderly prison atmosphere. I would not take unnecessary risks with that important goal. However, it is our job, as United States senators, to secure the safety of those who live outside the prison walls—law-abiding citizens taking an evening stroll, or stopping at the ATM machine, or, like Elissa Self-Braun, walking to a school bus from our home. To argue that inmates are too dangerous to keep in jail is outrageous and unacceptable.

I am also skeptical that good time is a necessary or effective disciplinary tool in most cases. Prison officials have a broad range of disciplinary tools at their disposal, including visitation and telephone privileges, recreation time, commissary privileges, and work opportunities. Most of these incentives provide an immediate reward, while the reward of good time credits is not realized for many months, and often years, after the desired behavior. I am not a psychologist, but it seems to me that young, impetuous criminals are more likely to appreciate an immediate, rather than a long delayed, reward.

In fact, statistics compiled by the Office of Justice Statistics seem to support this theory. Over the last few years, the incidence of violent misconduct in federal prisons has declined by more than 30 percent, even though prison officials no longer have parole as an incentive and the amount of allowable good time has decreased from as much as 120 days per year (prior to 1984) to 54 days.

The bottom line is this: early release for violent offenders costs lives. Today, there are more than 100,000 inmates in nearly 90 federal prisons and in contract facilities across the country. About 20,000 of these inmates are serving time for a violent offense. If they are released early from prison, 7,200 will be re-arrested for a violent crime within 3 years of their release.

My bill, the 100 Percent Truth In Sentencing Act, is the most straightforward, common sense approach that I have seen for putting violent criminals behind bars and keeping them there. Senator ROBB already has agreed to join me in co-sponsoring this legislation, and I hope all my colleagues will do the same.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2082

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''100 Percent Truth in Sentencing Act''.

SEC. 2. ELIMINATION OF CREDIT TOWARD SERVICE OF SENTENCE FOR SATISFACTORY BEHAVIOR.

Section 3624(b) of title 18, United States Code, is amended—

(1) by striking ''(1) A prisoner'' and inserting ''(1)(A) Subject to subparagraph (B), a prisoner'';

(2) by striking the second sentence; and

(3) by adding at the end the following:

''(B) A prisoner who is serving a term of imprisonment of more than 1 year for a crime of violence shall not be eligible for credit toward the service of the prisoner's sentence under subparagraph (A).''.●

By Mr. DEWINE:

S. 2083. A bill to amend title 18, United States Code, to set forth the civil jurisdiction of the United States for crimes committed by persons accompanying the Armed Forces outside of the United States, and for other purposes; to the Committee on Armed Services.

THE MILITARY AND CIVILIAN LAW COORDINATION ACT

• Mr. DEWINE. Mr. President, I believe certain elements of the U.S. military justice system need to be reformed. For example, current conditions contain loopholes that allow military criminals to receive pay—even after conviction. They allow nonmilitary personnel residing on military bases who commit crimes to escape criminal prosecution. And they allow military personnel who have committed crimes to be discharged without their criminal records being included in the FBI's National Crime Information Center system.

I believe we must close these loopholes.

Mr. President, under current law, a soldier sentenced to and awaiting dishonorable discharge, remains on the taxpayer's payroll, unless otherwise ordered by the military court. While in military custody, that lawbreaker continues to collect a paycheck from the rest of tax-paying America.

Mr. President, this simply should not be the case, in the streets of Cleveland, Seattle, or Denver, when a criminal breaks the law, he is removed from those streets. When he is allowed to return to those streets, his time in jail will have cost him a few things. Of course, chief among these things is his loss of freedom for the period of confinement. But he will also not collect a paycheck while incarcerated. We do not pay and should not pay our prisoners for serving their time in jail.

A Cincinnati man, convicted of rape, burglary, and assault by a military tribunal, later collected something on the order of $40,000, after taxes, for serving out his sentence. A Wright-Patterson Air Force Base airman, convicted of molesting a 4-year-old girl, has collected an average of $4,700 per month while serving out his sentence. Three years after his confession, he had received $148,616 from the U.S. taxpayers. He even received raises while behind bars.

There are many such stories, Mr. President.

This bill addresses that injustice to the taxpayer. This bill makes that lawbreaker serve out the sentence he has earned—at his own expense. It is already enough of a burden that the taxpayer has to pay for the room and board of that prisoner during the sentence, after he or she already paid more than enough to train and keep that soldier.

The loss of opportunity and earnings should be something the criminal pays for himself, the taxpayer should not pay for it. When that soldier breaks the law—and in doing so, breaks his agreement with the taxpayer—that should be the end of the taxpayer's responsibilities.

Once that soldier decides he no longer wants to be a law-abiding citizen, he is on his own, financially and otherwise. Mr. President, again, we should not pay our criminals for serving out their sentences.

My bill addresses another important gap in the law. Under current law, many illegal acts committed abroad by U.S. soldiers or accompanying civilians go unaddressed by the military courts. The prosecution of these crimes is left to the discretion of a military court, which often decides to do no more than hand down a dishonorable discharge, unleashing that criminal on civilian society. This should not be the case. Mr. President, there should be no geographical limits to the law.

This bill guarantees that a soldier or accompanying civilian abroad, committing an illegal act punishable under the United States Code by more than a year's imprisonment, will be handed over to civilian authorities for prosecution under the United States Code. The military should not be able to rid itself of its criminals at the expense of law abiding civilians. These criminals belong behind bars, not just out of the service and back in our streets. This bill will keep them out of our streets.

There is a final aspect of this bill intended to protect civilian Americans from the actions of enlisted criminals. This bill also mandates that when an enlisted criminal is discharged from the service, the military Secretary will turn over to the FBI all the criminal records of that soldier for inclusion in the FBI criminal records system. It also requires sex offenders who are discharged from the military to submit a DNA sample before discharge so that that sample can be included in the FBI's CODIS system.

Again, Mr. President, this is another way to protect the tax-paying, lawabiding American from dishonorably discharged criminals. Under current law, the criminal histories of these military personnel do not become part of the National Crime Information Center database and the FBI's CODIS system. This bill will ensure that they do.•

By Mr. PRESSLER (for himself, Mr. LOTT, Mr. BAUCUS, Mr. HATCH, Mr. D'AMATO, Mr. NICKLES, Mr. GORTON, Mr. HATFIELD, Mr. BURNS and Mrs. MURRAY):

S. 2086. A bill to amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of U.S. business operating abroad, and for other purposes; to the Committee on Finance.

THE INTERNATIONAL TAX SIMPLIFICATION FOR AMERICAN COMPETITIVENESS ACT

• Mr. PRESSLER. Mr. President, I am pleased to introduce a bill today that would provide much-needed relief to American-owned companies that are struggling to compete in the world marketplace. This bill is an attempt to simplify the overly complex international tax rules. I wish to thank my fellow cosponsors for their support—Senators LOTT, BAUCUS, BURNS, D'AMATO, HATCH, HATFIELD, GORTON, MURRAY, and NICKLES.

America's economy is more and more linked to the success of our businesses in the international economy. That's not a surprise to any of us. As the economies of previously less-developed countries around the world begin to expand, and the economic boundaries between our countries become more blurred, it is increasingly important for our businesses to be able to operate abroad from their most competitive position. Restraining our own companies through redundant and unnecessary complexities in our own Tax Code dampens their ability to compete for foreign business. In the end, it only hurts our own economy.

There are many factors that affect U.S. world competitiveness—factors over which we have little control. I know our international trade negotiators labor hard to change those factors we can control, such as barriers to foreign markets and existing agreements designed to keep trade free and fair. This is an issue of importance to me. I have sought to open markets for many South Dakota products—wheat in Africa, beef in Asia, and pork products in the former Soviet Union.

While we have had some successes in opening markets, barriers remain. And I intend to push for open and fair trade among all of our trading partners. However, we can do more than just open barriers. We can reform our tax code in a way that will ensure continued U.S. success in the world economy. If we miss this opportunity, we risk the erosion of U.S. international competitiveness as countries with simple, favorable tax treatment of businesses lure away American businesses.

This is a risk that is very real. A recent report by the Financial Executives Research Foundation found some rather shocking declines in U.S. competitiveness. This report found that over the last three decades, the global economy has grown more rapidly than our own economy. This is due, in part, to the recovery of Japan and Europe from the aftermath of World War II, and as a consequence, the United States presence in global markets has become less prominent. Their findings comparing the first half of the 1990's with the 1960's found the U.S. share of world GDP has declined to 26 percent—from 40 percent; the U.S. share of cross-border investment has fallen to 25 percent—from 50 percent; and the U.S. share of world exports has dropped to 12 percent—from 17 percent. In 1960, 18 of the world's 20 largest corporations were headquartered in the U.S. Today, that number is a mere eight.

There is a strong correlation between American corporate competitiveness overseas and the ability of those companies to continue to provide jobs at home. A 1991 Council of Economic Advisors Economic Report to the President explained:

In most cases, if U.S. multinational corporations did not establish affiliates abroad to produce for the local market, they would be too distant to have an effective presence in that market. In addition, companies from other countries would either establish such

facilities or increase exports to that market. In effect, it is not really possible to sustain exports to such markets in the long run. On a net basis, it is highly doubtful that U.S. direct investment abroad reduces U.S. exports or displaces U.S. jobs. Indeed, U.S. direct investment abroad stimulates U.S. companies to be more competitive internationally, which can generate U.S. exports and jobs. Equally important, U.S. direct investment abroad allows U.S. firms to allocate their resources more efficiently, thus creating healthier domestic operations, which, in turn tend to create jobs.

Overseas operations are frequently necessary to reduce costs of production and transportation, and locating facilities abroad increases brand familiarity. Within the United States, export related jobs pay on average a significantly higher wage than non-export related jobs. All of these factors combine to strengthen the U.S. parent company and bolster our economy here at home.

The compliance costs associated with filing a tax return for overseas business operations of a U.S.-based company are staggering. My state of South Dakota is home to the credit card headquarters of Citibank. In its printed form, the Federal income tax return form for Citibank stands over 9 feet high—taking tens of thousands of hours to complete. The compliance cost burden associated with the foreign source income taxation rules is disproportionate to the amount of tax raised by these sections. For example, a 1989 study by the University of Michigan Office of Tax Policy Research, quoted in recent Financial Executives Research Foundation report, states that 39.2 percent of Federal income tax costs are attributable to foreign source income, while foreign operations represent only 21 percent of assets, 24 percent of sales, and 18 percent of employment. And a 1993 survey of 17 large multinationals indicates an even higher percentage of Federal income tax compliance costs are attributable to foreign source income (51 percent)—indicating that compliance costs associated with foreign source income amount to 8.5 percent of the Federal income tax collected from this source. In comparison, a European Commission report found that among European multinational corporations, there is no evidence that compliance costs are higher for foreign than domestic source income.

The bill I am introducing today seeks to simplify and correct various areas in the Code that are unnecessarily restraining U.S. businesses. Some changes are areas in need of repair, and some changes are to take into consideration international business operations that exist today, but which were domestic-only or nonexistent businesses when the 1986 tax reform laws were implemented.

One of the most substantive and important changes included in the bill would repeal the so-called 10/50 foreign tax credit basket rules that force U.S. corporations to calculate separate foreign tax credit limitations for each of its foreign joint venture businesses—foreign business operations in which it holds at least 10 percent but no more than 50 percent of the stock. Along with creating administrative nightmares for U.S. companies that may have hundreds of such foreign joint venture operations, these rules impede the ability of U.S. companies to compete in foreign markets.

Today, United States businesses find it necessary to operate in joint ventures overseas, particularly in emerging markets such as the People's Republic of China and the former Soviet Union. Such joint ventures are necessary often times because U.S. investors face significant local country legal and political obstacles to taking a controlling interest in foreign companies. This is particularly the case for telecommunications companies and other regulated businesses. While such joint ventures are thus necessary for U.S. companies to enter and compete in foreign markets, our current tax law acts to discourage such operations.

Our bill would eliminate the needless administrative hassles of current law and put U.S.-backed joint ventures on equal footing with competitors from other countries by replacing the 10–50 separate foreign tax credit limitation. The proposal would provide for so-called look-through treatment. That is, income from such entities would be computed for purposes of the foreign tax credit limitation based on the underlying character of the income earned by such corporations, as is the case for income earned through controlled foreign corporations.

Another important correction to current rules relates to Foreign Sales Corporation [FSC] treatment for software. Ten years ago we did not have the level of software exports that we do today, and because the tax laws have not kept up with the changes in the high-technology business world, software exports are currently discriminated against by our own Tax Code. This bill would provide a legislative modification to the FSC statute to provide the same tax benefits for licenses of computer software as are currently available for films, records, and tapes. The United States is currently the world leader in software development, employing approximately 400,000 people in high-paying software development and servicing jobs. Much of the growth experienced by this industry is due to increased exports. The denial of the benefits of the FSC rules to software sold overseas ultimately harms the U.S. economy by constructing an impediment to the competitiveness of U.S. manufactured software. If theses exports are not given FSC benefits, many of these jobs could eventually move to other countries. The potential loss of these jobs would hurt our economy. My bill corrects this inequity.

The goal of the international tax simplification for American competitiveness bill is to give fair tax treatment to American companies who operate abroad. This bill is truly a technical correction and simplification bill designed to correct inequities in our Code and to help place U.S. companies on a level playing field with their foreign competitors. Without these corrections, American companies will lose ground vis-a-vis their foreign counterparts, which will weaken their ability to operate successfully at home and harm our Nation's economic potential. Americans are the most creative and competitive workers in the world, and releasing them from unnecessary constraints at home will help us maintain our economic lead in the world marketplace—guaranteeing quality, high-paying jobs at home and a stronger national economy.●

● Mr. D'AMATO. Mr. President, today I am pleased to join my friend and colleague, Senator PRESSLER, as an original cosponsor of the International Tax Simplification for American Competitiveness Act. This important bill will begin the process of dismantling tax barriers that hinder American businesses who find themselves in an increasingly competitive global marketplace. Although American firms have succeeded to date in spite of the current complexity and unfairness of our international tax regime, the added costs imposed by our tax rules take their toll. We must move to identify and eliminate those harmful and unnecessary provisions that stand in the way of a continuing leadership role for American business in world markets.

New York is home to many industries that are driven by global competition. Industries like the securities and banking industries, computer and other high technology firms, and countless other businesses in my State must have fair treatment at home in order to compete effectively abroad. For example, during the last decade the securities industry has been transformed from a largely domestic-oriented industry to an industry in which U.S. and international financial institutions compete against each other in the principal capital markets around the world. U.S.-based securities firms are recognized leaders in their industry worldwide. Maintaining this position is important not only for these firms, but also for their U.S. employees and for their U.S. customers who benefit from the innovative products and services offered by U.S.-based securities firms.

Unfortunately, Mr. President, U.S. tax law has failed to keep pace with the rapid changes in the world economy. The international provisions of the Internal Revenue Code were last substantially debated and revised in 1986. And in many cases, our foreign competitors operate under simpler, fairer, and more logical tax regimes. This mismatch between commercial reality and the U.S. Tax Code creates a structural bias against the international activities of U.S. companies. This cannot and should not be allowed to continue.

The International Tax Simplification for American Competitiveness Act acknowledges and addresses a number of problems our tax laws create for American businesses facing increasing global competition. This bill represents an important step toward correcting complexities of the antideferral rules under subpart F, including their inappropriate application to active financing income of bona fide financial institutions and the current definition of investment in U.S. property, and excessive limitations on the use of foreign tax credits.

Mr. President, the U.S. business community has had significant input in the development of this bill. This proposed legislation now will be evaluated and studied, and I welcome suggestions for its further improvement. It is my intention, as our analysis progresses, that we include other important issues not currently addressed in the bill, such as the appropriate allocation of interest expenses for foreign tax credit purposes, particularly for highly leveraged entities such as securities firms.

I look forward to working with Senator PRESSLER on this important bill, and urge my colleagues on both sides to become cosponsors.●

● Mr. BAUCUS. Mr. President, I am pleased to be a co-sponsor of the bipartisan ''International Tax Simplification for American Competitiveness Act.''

In 1997, Congress will take up tax reform. Discussions will range from replacing the current system to fixing what we have. Many Montanans ask me: How should we make taxes fairer for parents who are raising and educating their children, encourage our entrepreneurs to create and expand their businesses, and encourage all citizens to save?

Our international tax provisions also need reform. The bill we introduce today is a placeholder to keep international tax reform on the legislative radar screen.

As you can tell from the list of cosponsors, Mr. President, a number of Members have made contributions to the bill before us. Am I comfortable with every provision in the bill as written? No, I'm not. But I am comfortable every provision in the bill merits our consideration.

The Finance Committee will take up tax reform next year. We will consider simplification of the international tax provisions in that context. I hope that the bill we introduce today will establish the parameters from which the Finance Committee addresses the need to simplify our international tax provisions. We will hear from a number of witnesses ranging from the business community to the Department of Treasury and, no doubt, the language before us will undergo change.

We live in a global economy, Mr. President. Many businesses in Montana sell products directly or indirectly into that global economy. The international tax provisions should be simplified to make American companies competitive in the global economy while fairly taxing their profits.

I look forward to working with the cosponsors of this bill and with the members of the Finance Committee and ultimately with all of my colleagues in restructuring and simplifying the Tax Code to benefit all of our citizens.●

By Mr. KERRY:

S. 2087. A bill to direct the Secretary of the department in which the Coast Guard is operating to provide rescue diver training under the Coast Guard helicopter rescue swimming training program; to the Committee on Commerce, Science, and Transportation.

THE RESCUE DIVER TRAINING ACT OF 1996

Mr. KERRY. Mr. President, today I am introducing the Rescue Diver Training Act of 1996. This bill would provide required Congressional authorization for the Coast Guard to expand its current use of Coast Guard divers to form a broader search and rescue mission application.

I want to acknowledge my distinguished colleague from Massachusetts, Congressman GERRY STUDDS, who is the author of the Coast Guard Rescue Swimmer Training Program which this legislation amends and with whom I have worked in developing this legislation which he will introduce in the House.

The Coast Guard has used its divers, trained at the Naval Diving School in Panama City, FL, only for salvage operations associated with Coast Guard aids to navigation and ice-breaking missions. This bill would authorize the Coast Guard to develop and implement a program to extend the use of these highly trained divers to search and rescue efforts.

Under current search and rescue procedures, the Coast Guard will dispatch a helicopter when a ship is reported to be in distress or a marine accident is reported. When it is anticipated that a diver may be needed to assist in a rescue, the Coast Guard uses contract personnel who usually are volunteer policemen, firemen, or local State marine policemen who have had specialized diver training. A call will be made to secure the services of a diver, and the helicopter will wait to depart until the diver reaches its station, or it will fly to another location to pick up the diver—all before it flies to the rescue scene. This often results in the helicopter being delayed—even if only a few minutes—in reaching the rescue scene. Sometimes no diver is available within a reasonable period of time, in which case the helicopter proceeds to the scene with no diver on board.

The program that this legislation will establish is designed both to speed this process in the realization that, in rescue situations, minutes and even seconds can mean life or death—especially in the waters off our northern coasts, and to provide a pool of divers within the Coast Guard. Where a qualified diver is available at a Coast Guard station, a rescue helicopter can load that diver and immediately depart for the rescue situation without any delay.

A recent episode in the North Atlantic off Massachusetts amply illustrates how the program this legislation would establish could make a vital contribution. In the early hours of September 5, the fishing vessel *Heather Lynne II* carrying a crew of three capsized. The rescue helicopter was unable to bring a diver with it because none was available when the emergency call was received. After reaching the site of the capsized vessel, and determining that a diver was needed, the helicopter had to return to the mainland to pick up a diver. A considerable amount of time was lost in this process.

The Coast Guard is charged with maintaining constant vigilance—to protect lives and property on our waterways and to enforce our maritime, immigration, antidrug, and other laws. In my judgment, it has performed capably and honorably throughout its history, and Americans should take both considerable pride and comfort in that knowledge.

It is the Congress' responsibility to provide the Coast Guard with the resources it needs to perform its missions. This legislation will enhance the service's resources for its search and rescue mission, and increase its ability to save lives and property. All who use our waterways and oceans will be safer as a result.

Mr. President, this legislation should be approved by the Congress as soon as possible—I hope it will be this year.

I ask unanimous consent that the full text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rescue Diver Training Act of 1996.''.

SEC. 2. RESCUE DIVER TRAINING FOR SELECTED COAST GUARD PERSONNEL.

The Secretary of the department in which the Coast Guard is operating may provide rescue diver training to selected Coast Guard personnel, under the helicopter rescue swimming program conducted under section 9 of the Coast Guard Authorization Act of 1984 (14 U.S.C. 88 note).

ADDITIONAL COSPONSORS

S. 45

At the request of Mr. FEINGOLD, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 45, a bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.